

AMENDED IN ASSEMBLY JUNE 27, 2007

SENATE BILL

No. 370

Introduced by Senator Kuehl

February 21, 2007

An act to amend Section ~~14105.395~~ of 14133.8 of, to add Sections 14132.69 and 14132.71 to, and to repeal Sections 14132.5 and 14132.7 of, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 370, as amended, Kuehl. Medi-Cal: organ transplants.

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. Existing law authorizes the department to implement utilization controls through the establishment of guidelines, protocols, algorithms, or criteria for drugs, medical supplies, durable medical equipment, and enteral formulae.

Under existing law, liver, heart, and bone marrow transplant and donor surgeries are covered as reimbursable services under the Medi-Cal program.

This bill would repeal these provisions as to liver and heart transplant and donor surgeries, and would instead, require all donor and recipient organ transplant surgeries to be covered under the Medi-Cal program when an organ transplant is provided to a beneficiary in a medical facility that meets the requirements of, and is approved by, the department. The bill would also require all donor and recipient organ transplant surgeries that are authorized by the department pursuant to these provisions to be subject to utilization controls, and reimbursable only to the extent that federal financial participation is available.

This bill would require ~~that these utilization controls include~~ *guidelines the department, for purposes of donor and recipient organ transplant surgeries, to establish standards* as to both the circumstances and the criteria that the department will use for approving facilities and personnel for organ transplants eligible for receiving reimbursement under the Medi-Cal program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that a number
2 of serious problems have recently occurred in several organ
3 transplant programs in California.

4 (a) The Legislature further finds and declares that these problems
5 highlight the need to require transplant centers to operate in a
6 manner that best assists both those who are receiving transplants
7 and those who are awaiting transplants, as well as organ donors
8 and affected families, and also to make certain that proper expertise
9 is available to accomplish these goals.

10 (b) It is the intent of the Legislature in enacting this act to ensure
11 that local, state, and federal money continues to be efficiently
12 spent, patients are protected, and that the State Department of
13 Health Care Services further develops clarifying guidelines as they
14 continue to implement and administer their existing utilization
15 controls for organ transplants.

16 ~~SEC. 2. Section 14105.395 of the Welfare and Institutions~~
17 ~~Code is amended to read:~~

18 ~~14105.395. (a) The department may implement utilization~~
19 ~~controls through the establishment of guidelines, protocols,~~
20 ~~algorithms, or criteria for drugs, medical supplies, durable medical~~
21 ~~equipment, and enteral formulae. These utilization controls shall~~
22 ~~include guidelines as to both the circumstances and the criteria~~
23 ~~that the department will use for approving facilities and personnel~~
24 ~~for organ transplants eligible for receiving reimbursement under~~
25 ~~the Medi-Cal program. The department shall publish the guidelines,~~
26 ~~protocols, algorithms, or criteria in the pharmacy and medical~~
27 ~~provider manuals.~~

1 ~~(b) The department shall issue providers written notice of~~
2 ~~changes pursuant to subdivision (a) at least 30 days prior to~~
3 ~~implementation.~~

4 ~~(e) Changes made pursuant to this section are exempt from the~~
5 ~~requirements of the Administrative Procedure Act (Chapter 3.5~~
6 ~~(commencing with Section 11340), Chapter 4 (commencing with~~
7 ~~Section 11370), and Chapter 5 (commencing with Section 11500)~~
8 ~~of Part 1 of Division 3 of Title 2 of the Government Code), and~~
9 ~~shall not be subject to the review and approval of the Office of~~
10 ~~Administrative Law. The department shall consult with interested~~
11 ~~parties and appropriate stakeholders in implementing this section~~
12 ~~with respect to all of the following:~~

13 ~~(1) Notifying the provider representatives of the proposed~~
14 ~~change.~~

15 ~~(2) Scheduling at least one meeting to discuss the change.~~

16 ~~(3) Allowing for written input regarding the change.~~

17 ~~(4) Providing advance notice on the implementation and~~
18 ~~effective date of the change.~~

19 *SEC. 2. Section 14132.5 of the Welfare and Institutions Code*
20 *is repealed.*

21 ~~14132.5. Notwithstanding any other provision of this chapter,~~
22 ~~the Medi-Cal program shall pay for donor and recipient surgery,~~
23 ~~subject to utilization controls, when a liver transplant is provided~~
24 ~~a beneficiary under this chapter, provided that the medical facility~~
25 ~~involved has been approved by the department to perform liver~~
26 ~~transplant surgery.~~

27 *SEC. 3. Section 14132.69 is added to the Welfare and*
28 *Institutions Code, to read:*

29 *14132.69. (a) Notwithstanding any other provision of law,*
30 *donor and recipient organ transplant surgeries are covered under*
31 *the Medi-Cal program when an organ transplant is provided to a*
32 *beneficiary under this chapter in a medical facility that meets the*
33 *requirements of, and is approved by, the department.*

34 *(b) Any donor or recipient organ transplant surgeries authorized*
35 *by the department pursuant to this chapter are subject to utilization*
36 *controls and are reimbursable under this chapter only to the extent*
37 *that federal financial participation is available.*

38 *(c) Notwithstanding Chapter 3.5 (commencing with Section*
39 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*
40 *the department may implement, interpret, or make specific this*

1 *section by means of all-county letters, provider bulletins, or other*
2 *instructions, without taking any further regulatory action.*

3 *(d) This section shall not apply to Section 14133.8.*

4 *SEC. 4. Section 14132.7 of the Welfare and Institutions Code*
5 *is repealed.*

6 ~~14132.7. Notwithstanding any other provision of this chapter,~~
7 ~~and to the extent permitted by federal law, the Medi-Cal program~~
8 ~~shall pay for donor and recipient surgery, subject to utilization~~
9 ~~controls, when a heart transplant is provided a beneficiary under~~
10 ~~this chapter, if the medical facility involved has been approved by~~
11 ~~the department to perform heart transplant surgery. If the~~
12 ~~requirements of this section have been met by the medical facility~~
13 ~~performing the transplant surgery, the medical facility performing~~
14 ~~the donor surgery shall be reimbursed for the donor surgery.~~

15 *SEC. 5. Section 14132.71 is added to the Welfare and*
16 *Institutions Code, to read:*

17 *14132.71. (a) For purposes of donor and recipient organ*
18 *transplant surgeries, the department shall establish standards as*
19 *to both the circumstances and the criteria that the department will*
20 *use for approving facilities eligible for receiving reimbursement*
21 *under the Medi-Cal program.*

22 *(b) Notwithstanding Chapter 3.5 (commencing with Section*
23 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*
24 *the department may implement, interpret, or make specific this*
25 *section by means of all-county letters, provider bulletins, or other*
26 *instructions, without taking any further regulatory action.*

27 *SEC. 6. Section 14133.8 of the Welfare and Institutions Code*
28 *is amended to read:*

29 *14133.8. (a) A bone marrow transplant for the treatment of*
30 *cancer for beneficiaries, shall be reimbursable under this chapter,*
31 *when all of the following conditions are met:*

32 *(1) The bone marrow transplant is recommended by the*
33 *recipient's physician.*

34 *(2) The bone marrow transplant is performed in a hospital that*
35 *is approved for participation in the Medi-Cal program.*

36 *(3) The bone marrow transplant is a reasonable course of*
37 *treatment and is approved by the hospital medical policy committee*
38 *when there is an existing committee or a committee can be*
39 *established.*

1 (4) The bone marrow transplant has been deemed appropriate
2 for the recipient by the program's medical consultant. The medical
3 consultant shall not disapprove the bone marrow transplant solely
4 on the basis that it is classified as experimental or investigational.

5 (5) Full federal financial participation is available for
6 reimbursement for the performance of the bone marrow transplant.

7 (b) The program shall provide reimbursement for both donor
8 and recipient surgery.

9 (c) The department may establish inpatient rates of
10 reimbursement not in accordance with the state plan for those
11 hospitals not under contract with the state pursuant to Article 2.6
12 (commencing with Section 14081), provided that the state plan is
13 subsequently amended to reflect the method of reimbursement.

14 (d) This section shall not be construed as prohibiting
15 reimbursement for any bone marrow transplants otherwise provided
16 for under this chapter.

17 (e) *Any bone marrow transplant authorized by the department*
18 *pursuant to this section shall be subject to utilization controls and*
19 *reimbursable only to the extent that federal financial participation*
20 *is available.*

21 (f) *Notwithstanding Chapter 3.5 (commencing with Section*
22 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*
23 *the department may implement, interpret, or make specific this*
24 *section by means of all-county letters, provider bulletins, or other*
25 *instructions, without taking any further regulatory action.*